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2	Kimmel & Silverman, P.C.		
3	1930 East Marlton Pike, Suite Q29 Cherry Hill, New Jersey 08003 (856) 429-8334 Attorney of Record: Amy Lynn Bennecoff Ginsburg (AB0891) Attorney for Plaintiff		
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6	UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY		
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9	EILEEN WYANT,	`	
10	,))	
11	Plaintiff))	
12	V.) Case No.:	
13	LEXINGTON LAW,) COMPLAINT AND DEMAND FOR) JURY TRIAL	
14	Defendant)	
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16	COMPLAINT		
17	EILEEN WYANT ("Plaintiff"), by and through her attorneys, KIMMEL &		
18	SILVERMAN, P.C., alleges the following against LEXINGTON LAW ("Defendant"):		
19	INTRODUCTION		
20	1. Plaintiff's Complaint is based	d on the Telephone Consumer Protection Act	
21	("TCPA"), 47 U.S.C. § 227 et seq.		
22	JURISDICTIO	ON AND VENUE	
23	2. Jurisdiction of this Court arise	es pursuant to 28 U.S.C. § 1331. See Mims v.	
24	Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).		
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- 3. Defendant conducts business in the State of New Jersey therefore personal jurisdiction is established.
 - 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

- 5. Plaintiff is a natural person residing in Blackwood, New Jersey.
- 6. Plaintiff is a "person" as that term is defined by 47 U.S.C. § 153(39).
- 7. Defendant is a business entity with an office located at 360 North Cutler Drive, North Salt Lake, Utah, 84054.
 - 8. Defendant is a "person" as that term is defined by 47 U.S.C. §153(39).
- 9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

- 10. Plaintiff has a cellular telephone number that she has had for more than one year.
- 11. The phone number has been assigned to a cellular telephone service for which Plaintiff incurs a charge for incoming calls.
- 12. Plaintiff never furnished Defendant with her cell number and never authorized Defendant to call her on her cellular telephone.
- 13. Beginning in or about September 2015, and continuing through December 2015, Defendant called Plaintiff on her cellular telephone.
- 14. Defendant used an automatic telephone dialing system and automatic and/or prerecorded messages when contacting Plaintiff.
- 15. Plaintiff knew that Defendant was using an automatic telephone dialing system and automatic and/or pre-recorded messages as calls would begin with a pre-recorded message.

- 16. Plaintiff also received automated voice messages from Defendant.
- 17. Defendant's telephone calls were not made for "emergency purposes."
- 18. Plaintiff told Defendant to stop calling in early September 2015.
- 19. However, Defendant ignored Plaintiff's request and continued to call.
- 20. It was frustrating and annoying for Plaintiff to receive such continuous and repeated telephone calls from Defendant on her cellular telephone.
- 21. Ultimately, in order to get the calls to stop, Plaintiff had to begin blocking calls from Defendant.

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

- 22. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.
- 23. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.
- 24. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.
 - 25. Defendant's calls to Plaintiff were not made for emergency purposes.
- 26. Defendant's calls to Plaintiff, in and after September 2015, were not made with Plaintiff's prior express consent.
- 27. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

- 28. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.
- 29. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, EILEEN WYANT, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per telephone call pursuant to 47 U.S.C. \$227(b)(3) or alternatively that amount for all calls made after Defendant was notified that they were calling the wrong person and wrong number;
- d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
- e. Any other relief deemed appropriate by this Honorable Court.

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, EILEEN WYANT, demands a jury trial in this case.

CERTIFICATION PURSUANT TO L.CIV.R.11.2

I hereby certify pursuant to Local Civil Rule 11.2 that this matter in controversy is not subject to any other action pending in any court, arbitration or administrative proceeding.

1	Respectfully submitted,
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3 4	By: <u>/s/ Amy Lynn Bennecoff Ginsburg</u> Amy Lynn Bennecoff Ginsburg, Esquire Kimmel & Silverman, P.C.
5	30 E. Butler Avenue Ambler, PA 19002
6	Phone: (215) 540-8888 Facsimile: (877) 788-2864 Email: aginsburg@creditlaw.com
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8	Dated: 12-23-16
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